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DEPARTMENT OF COMMERCE

International Trade Administration

(A-570-010)

Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

SUMMARY: The Department of Commerce (the Department) determines that certain crystalline silicon photovoltaic products (certain solar products) from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final weighted-average dumping margins for this investigation are listed in the "Final Determination Margins" section below.

FOR FURTHER INFORMATION CONTACT: Jeffrey Pedersen or Thomas Martin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2769 or (202) 482-3936, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the preliminary determination in the LTFV investigation of certain solar products from the PRC on July 31, 2014.¹ The following events occurred since the preliminary determination. Between August 4 and 14, 2014, the Department conducted a verification of Changzhou Trina Solar Energy Co., Ltd. and Trina Solar (Changzhou) Science & Technology Co., Ltd. (collectively, Trina Solar) in Changzhou, PRC, and conducted a verification of their U.S. sales affiliate, Trina Solar (U.S.) Inc., in San Jose, California. Between August 7 and 20, 2014, the Department conducted a verification of Renesola Jiangsu Ltd., Renesola America Inc., Jinko Solar Import and Export Co., Ltd., and Jinko Solar (U.S.) Inc., in Shanghai and Yixing, PRC, and in San Francisco, California.² The Department issued the

¹ See *Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 79 FR 44399 (July 31, 2014) (“*Preliminary Determination*”).

² The Department is treating the Renesola and Jinko companies under investigation as a single entity hereinafter collectively referred to as Renesola/Jinko. See Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, From Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations regarding Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China: Issues and Decision Memorandum for the Final Determination of Sales at Less Than Fair Value,” dated concurrently with and hereby adopted by this notice (“Issues and Decision Memorandum”) at Comment 16.

verification reports regarding Trina Solar on September 26, 2014.³ The Department issued the verification reports regarding Renesola/Jinko on September 30 and October 2, 2014.⁴

On October 3, 2014, in response to interested parties' comments on the scope of this investigation, the Department announced that it was considering the possibility of a scope clarification, described the possible clarification, and provided interested parties with an opportunity to submit comments on the potential clarification.⁵

On October 16, 2014, Trina Solar, Renesola/Jinko, SolarWorld Americas Inc. (Petitioner) (formerly SolarWorld Industries America, Inc.), the Government of the PRC, a U.S. importer,

³ See Memorandum to the File, from Erin Kearney, Patrick O'Connor, and Jeff Pedersen, International Trade Compliance Analysts, AD/CVD Operations, Office IV, titled "Verification of the Sales and Factors of Production Information Submitted by Changzhou Trina Solar Energy Co., Ltd. in the Antidumping Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China ("PRC")," dated September 26, 2014; see Memorandum to the File, from Patrick O'Connor and Jeff Pedersen, International Trade Compliance Analysts, AD/CVD Operations, Office IV, titled "Verification of Trina Solar (U.S.) Inc. in the Antidumping Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China ("PRC")," dated September 26, 2014.

⁴ See Memorandum to the File, from Thomas Martin, Lilit Astvatsatryan, Theresa Deeley, International Trade Compliance Analysts, AD/CVD Operations, Office IV, titled "Verification of the Sales Responses of Renesola America Inc. in the Antidumping Investigation of Certain Silicon Crystalline Photovoltaic Products from the People's Republic of China," dated September 30, 2014; see Memorandum to the File, from Thomas Martin, Lilit Astvatsatryan, Theresa Deeley, International Trade Compliance Analysts, AD/CVD Operations, Office IV, titled "Verification of Jinko Solar Import & Export Co., Ltd. and Jinko Solar (U.S.) Inc. in the Antidumping Duty Investigation of Certain Crystalline Silicon Photovoltaic Products, from the People's Republic of China ("PRC")," dated September 30, 2014; see Memorandum to the File, from Thomas Martin, Lilit Astvatsatryan, Theresa Deeley, International Trade Compliance Analysts, AD/CVD Operations, Office IV, titled "Verification of the Sales and Factors Responses of Renesola Jiangsu Ltd. in the Antidumping Duty Investigation of Certain Silicon Crystalline Photovoltaic Products from the People's Republic of China," dated October 2, 2014.

⁵ See Letter to All Interested Parties "Re: Antidumping and Countervailing Duty Investigations of Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China and the Antidumping Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from Taiwan: Opportunity to Submit Scope Comments," dated October 3, 2014.

Suniva Inc., and certain separate rate applicants submitted case briefs.⁶ From October 22, 2014 to October 27, 2014, Trina Solar, Renesola/Jinko, Petitioner, and certain separate rate applicants submitted rebuttal briefs.⁷

⁶ See Letter from fourteen separate rate applicants, “Re: Antidumping and Countervailing Duty Investigations of Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China, and Antidumping Duty Investigation of Certain Crystalline Silicon Photo voltaic Products from Taiwan: Respondents’ Case Brief,” dated October 16, 2014; Letter from the PRC Government, “Re: Government of China’s Case Brief: Certain Crystalline Silicon Photovoltaic Products from the People’s Republic Of China,” dated October 16, 2014; Letter from Asun Energy Co., Ltd. (a/k/a Suzhou Asun Energy Co., Ltd.), “Re: Administrative Case Brief: Antidumping Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China (A-570-010),” dated October 16, 2014; Letter from Trina, “Re: Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China; Case Brief of Changzhou Trina Solar Energy Co., Ltd.,” dated October 16, 2014; Letter from Renesola, “Re: Certain Crystalline Silicon Photovoltaic Products from China; Case Brief,” dated October 16, 2014; Letter from Junco, “Re: Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China: Case Brief,” dated October 16, 2014; Letter from Hanwha QCELLS USA, Inc., “Re: Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China,” dated October 16, 2014; Letter from Suniva, Inc., “Re: Case Brief on Scope Issues Certain Crystalline Silicon Photovoltaic Products from China and Taiwan,” dated October 16, 2014; Letter from tenKsolar (Shanghai) Co., Ltd., “Re: Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China and Taiwan– Case Brief,” dated October 16, 2014; Letter from SNJ Enterprises LLC dba Zamp Solar and Quebec Inc. dba RDK Products, “Re: Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China: Case Brief,” dated October 16, 2014; Letter from Petitioner, “Re: Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China: Case Brief of Solar World Americas, Inc.,” dated October 16, 2014.

⁷ See Letter from Hanwha SolarOne (Qidong) Co., Ltd. and Hanwha SolarOne Hong Kong Limited, “Re: Rebuttal Brief: Antidumping Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China (A-570-010),” dated October 22, 2014; Letter from Asun Energy Co., Ltd. (a/k/a Suzhou Asun Energy Co., Ltd.), “Re: Rebuttal Brief: Antidumping/Countervailing Duty Investigations of Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China,” dated October 22, 2014; Letter from Shangluo BYD Industrial Co., Ltd. and Shanghai BYD Co., Ltd. “Re: Crystalline Silicon Photovoltaic Products from the People’s Republic of China and Taiwan: Rebuttal Brief,” dated October 22, 2014; Letter from Changzhou Almaden Co., Ltd., “Re: Crystalline Silicon Photovoltaic Products from P.R. China: Rebuttal Brief,” dated October 22, 2014; Letter from Renesola “Re: Certain Crystalline Silicon Photovoltaic Products from China; Rebuttal Brief,” dated October 22, 2014; Letter from Petitioner, “Re: Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China: Rebuttal Brief of Solar World Americas, Inc.,” dated October 22, 2014; Letter from Trina, “Re: Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China: Rebuttal Brief of Changzhou Trina Solar Energy Co., Ltd.,” dated October 22, 2014. *see also* Letter from fourteen separate rate applicants, “Re: Antidumping and Countervailing Duty Investigations of Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China, and Antidumping Duty Investigation of Certain Crystalline Silicon Photo voltaic Products from Taiwan: Respondents’ Rebuttal Brief,” dated October 27, 2014; Letter from Hanwha QCELLS USA, Inc. “Re: Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China,” dated October 27, 2014; Letter from SNJ Enterprises LLC dba Zamp Solar LLC and Quebec Inc. dba RDK Products, “Re: Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China: Rebuttal Brief,” dated October 27, 2014; Letter from Petitioner, “Re: Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China: SolarWorld’s Rebuttal Brief on Scope,” dated October 27, 2014.

Although certain parties requested that a hearing be held, on October 24, 2014, all requests were subsequently withdrawn. Thus, the Department did not hold a hearing with respect to this investigation.

Period of Investigation

The period of investigation (POI) is April 1, 2013, through September 30, 2013. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, which was December 2013.⁸

Scope Comments and Scope Clarification

As indicated in the “Background” section above, the Department received comments regarding the scope of this investigation from numerous interested parties. The Department summarized these comments and addressed them in the accompanying Issues and Decision Memorandum.⁹ As explained in the Issues and Decision Memorandum, we have clarified the scope language such that subject merchandise includes all modules, laminates and/or panels assembled in the PRC that contain crystalline silicon photovoltaic cells produced in a customs territory other than the PRC.¹⁰ The scope of the investigation for this final determination is below.

Certifications No Longer Required for this Proceeding

In the *Preliminary Determination*, the Department announced that (1) if an importer imports solar modules that were assembled in the PRC and (2) claims the solar modules do not contain solar cells manufactured in third countries using ingots, wafers, or partially produced solar cells manufactured in the PRC, the importer and PRC exporter of those solar modules are

⁸ 19 CFR 351.204(b)(1).

⁹ See Issues and Decision Memorandum.

¹⁰ *Id.* at Comment 1.

required to certify the claim and maintain documentation supporting the certifications.¹¹

However, given the clarification to the scope language, the Department is revoking the importer and exporter certification requirements announced in the *Preliminary Determination*. Importers and PRC exporters will not be required to maintain the certifications identified in the *Preliminary Determination* for merchandise entered, or withdrawn from warehouse, for consumption on or after July 31, 2014, the date of publication of the *Preliminary Determination* notice in the *Federal Register*. The revocation of the certification requirements previously established in this investigation does not change or rescind the certification requirements established in connection with the existing AD order on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the PRC.¹²

Scope of the Investigation

The merchandise covered by this investigation is modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials. For purposes of this investigation, subject merchandise includes modules, laminates and/or panels assembled in the PRC consisting of crystalline silicon photovoltaic cells produced in a customs territory other than the PRC.

Subject merchandise includes modules, laminates and/or panels assembled in the PRC consisting of crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of

¹¹ *Preliminary Determination*, 79 FR 44901-44902.

¹² *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012) ("crystalline silicon photovoltaic cells, whether or not assembled into modules, from the PRC").

materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Excluded from the scope of this investigation are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS). Also excluded from the scope of this investigation are modules, laminates and/or panels assembled in the PRC, consisting of crystalline silicon photovoltaic cells, not exceeding 10,000mm² in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cells. Where more than one module, laminate and/or panel is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all modules, laminates and/or panels that are integrated into the consumer good. Further, also excluded from the scope of this investigation are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, laminates and/or panels, from the PRC.¹³

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030 and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this investigation is dispositive.

Analysis of Comments Received

¹³ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 77 FR 73018 (December 7, 2012); *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Countervailing Duty Order*, 77 FR 73017 (December 7, 2012).

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the Issues and Decision Memorandum. A list of the issues which the parties raised and to which the Department responded in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and it is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes to the Margin Calculations Since the Preliminary Determination

Based on the Department's analysis of the comments received and our findings at verification, we made certain changes to the margin calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum, the company-specific analysis and surrogate value memoranda, and the separate rate calculation memorandum, all dated concurrently with this notice.

Verification

As provided in section 782(i) of the Act and 19 CFR 351.307(b)(1)(i), in August 2014, the Department verified the information submitted by Trina Solar and Renesola/Jinko for use in the final determination. The Department used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by Trina Solar and Renesola/Jinko.

Final Determination Margins

The Department determines that the following weighted-average dumping margins exist for the period April 1, 2013 through September 30, 2013.

Exporter	Producer	Weighted-Average Dumping Margin (Percent)
Changzhou Trina Solar Energy Co., Ltd./Trina Solar (Changzhou) Science & Technology Co., Ltd.	Changzhou Trina Solar Energy Co., Ltd./Trina Solar (Changzhou) Science & Technology Co., Ltd.	26.71
Renesola Jiangsu Ltd./Renesola Zhejiang Ltd./Jinko Solar Co. Ltd./Jinko Solar Import and Export Co., Ltd.	Renesola Jiangsu Ltd./ Jinko Solar Co. Ltd.	78.42
Anji DaSol Solar Energy Science & Technology Co., Ltd.	Anji DaSol Solar Energy Science & Technology Co., Ltd.	52.13
Asun Energy Co., Ltd. (a/k/a Suzhou Asun Energy Co., Ltd.)	Asun Energy Co., Ltd. (a/k/a Suzhou Asun Energy Co., Ltd.)	52.13
Baoding Tianwei Yingli New Energy Resources Co., Ltd	Baoding Tianwei Yingli New Energy Resources Co., Ltd., Yingli Energy (China) Co., Ltd., and Lixian Yingli New Energy Co., Ltd.	52.13
BYD (Shangluo) Industrial Co., Ltd.	BYD (Shangluo) Industrial Co., Ltd.	52.13
Canadian Solar International Limited	Canadian Solar Manufacturing (Luoyang) Inc., Canadian Solar Manufacturing (Changshu), Inc.	52.13
Canadian Solar Manufacturing (Changshu), Inc.	Canadian Solar Manufacturing (Changshu), Inc.	52.13
Canadian Solar Manufacturing (Luoyang) Inc.	Canadian Solar Manufacturing (Luoyang) Inc.	52.13
CEEG Nanjing Renewable Energy Co., Ltd.	CEEG Nanjing Renewable Energy Co., Ltd.	52.13
Changzhou Almaden Co., Ltd.	Changzhou Almaden Co., Ltd.	52.13
Chint Solar (Zhejiang) Co., Ltd.	Chint Solar (Zhejiang) Co., Ltd.	52.13
ET Solar Industry Limited	ET Solar Industry Limited	52.13
Hainan Yingli New Energy Resources Co. Ltd	Hainan Yingli New Energy Resources Co. Ltd	52.13

Hangzhou Zhejiang University Sunny Energy Science and Technology Co., Ltd.	Hangzhou Zhejiang University Sunny Energy Science and Technology Co., Ltd.	52.13
Hanwha SolarOne (Qidong) Co., Ltd.	Hanwha SolarOne (Qidong) Co., Ltd.	52.13
Hanwha SolarOne Hong Kong Limited	Hanwha SolarOne (Qidong) Co., Ltd.	52.13
Hefei JA Solar Technology Co., Ltd.	Hefei JA Solar Technology Co., Ltd.	52.13
Hengdian Group DMEGC Magnetics Co., Ltd	Hengdian Group DMEGC Magnetics Co., Ltd.	52.13
Hengshui Yingli New Energy Resources Company Limited	Hengshui Yingli New Energy Resources Company Limited	52.13
Jiangyin Hareon Power Co., Ltd.	Jiangyin Xinhui Solar Co., Ltd.; Altusvia Energy Taicang Co., Ltd.; Hareon Solar Technology Co., Ltd.	52.13
Jiawei Solarchina Co., Ltd.	Jiawei Solarchina (Shenzhen) Co., Ltd.	52.13
Jiawei Technology (HK) Ltd.	Shenzhen Jiawei Photovoltaic Lighting Co. Ltd.	52.13
LDK Solar Hi-Tech (Nanchang) Co., Ltd.	LDK Solar Hi-Tech (Nanchang) Co., Ltd.	52.13
Lixian Yingli New Energy Company Ltd.	Lixian Yingli New Energy Company Ltd	52.13
MOTECH (Suzhou) Renewable Energy Co., Ltd	MOTECH (Suzhou) Renewable Energy Co., Ltd	52.13
Ningbo Qixin Solar Electrical Appliance Co., Ltd.	Ningbo Qixin Solar Electrical Appliance Co., Ltd.	52.13
Perlight Solar Co., Ltd.	Perlight Solar Co., Ltd.	52.13
Risen Energy Co., Ltd.	Risen Energy Co., Ltd.	52.13
Shanghai JA Solar Technology Co., Ltd.	Shanghai JA Solar Technology Co., Ltd.	52.13
Shanghai Solar Energy Science & Technology Co., Ltd.	Lianyungang Shenzhou New Energy Co., Ltd.	52.13
Shenzhen Jiawei Photovoltaic Lighting Co. Ltd.	Shenzhen Jiawei Photovoltaic Lighting Co. Ltd.	52.13
Shenzhen Sungold Solar Co., Ltd.	Shenzhen Sungold Solar Co., Ltd.	52.13
Shenzhen Topray Solar Co., Ltd.	Shenzhen Topray Solar Co., Ltd.	52.13
Sun Earth Solar Power Co., Ltd.	Sun Earth Solar Power Co., Ltd.	52.13

Sunny Apex Development Ltd.	Shenzhen Jiawei Photovoltaic Lighting Co. Ltd., Wuhan FYY Technology Co., Ltd.	52.13
SunPower Systems SARL	SunEnergy (S.Z.) Co., Ltd.	52.13
tenKsolar (Shanghai) Co., Ltd.	tenKsolar (Shanghai) Co., Ltd.	52.13
Upsolar Global Co., Ltd. and including Upsolar Group, Co., Ltd.	Shandong Dahai Group Co. Ltd.	52.13
Wanxiang Import & Export Co., Ltd.	Zhejiang Wanxiang Solar Co., Ltd.	52.13
Wuhan FYY Technology Co., Ltd.	Wuhan FYY Technology Co., Ltd.	52.13
Wuxi Suntech Power Co., Ltd	Wuxi Suntech Power Co., Ltd	52.13
Yingli Energy (China) Company Limited	Yingli Energy (China) Company Limited, Baoding Tianwei Yingli New Energy Resources Co. , Ltd. and Lixian Yingli New Energy Co. , Ltd	52.13
Yingli Green Energy International Trading Limited	Yingli Energy (China) Company Limited, Baoding Tianwei Yingli New Energy Resources Co., Ltd., and Hainan Yingli New Energy Resources Co., Ltd.	52.13
Zhongli Talesun Solar Co., Ltd.	Zhongli Talesun Solar Co., Ltd.	52.13
PRC-Wide Rate		165.04

PRC-Wide Entity

Consistent with the *Preliminary Determination*, the PRC-wide entity includes, among other companies, CSG PVTech Co., Ltd.; Lianyungang Shenzhou New Energy Co., Ltd.; Lightway Green New Energy Co., Ltd.; SunEnergy (S.Z.) Co., Ltd.; SunPower Corporation (U.S.); Jiawei Solarchina (Shenzhen) Co., Ltd.; and Sumec Hardware & Tools Co., Ltd. We found these companies either have not demonstrated an absence of *de facto* government control,

or did not have a sales transaction during the POI that provided a basis for granting separate rate status.¹⁴

The PRC-wide entity also includes 35 PRC exporters and/or producers of the merchandise under consideration during the POI that did not respond to the Department's request for information.¹⁵ These companies withheld necessary information, failed to provide information by the established deadlines, and significantly impeded this proceeding by not submitting the requested quantity and value information within the meaning of sections 776(a)(1) and (a)(2)(A)-(C) of the Act, and further, failed to cooperate by not acting to the best of their ability to comply with the Department's requests for information within the meaning of section 776(b) of the Act. Therefore, we are continuing to apply adverse facts available to the PRC-wide entity. *See* Issues and Decision Memorandum for further discussion.

Disclosure

We intend to disclose to parties the calculations performed in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

¹⁴ *See* the memorandum from Jeff Pedersen, Senior International Trade Analyst, Office IV, AD/CVD Operations to Abdelali Elouaradia, Director, Office IV AD/CVD Operations regarding "Companies Not Receiving a Separate Rate," dated July 24, 2014; *see also* Comments 7 and 8 of the Issues and Decision Memorandum.

¹⁵ Those companies are: Beijing Hope Industry, China Sunergy, CNPV, EGing, ENN Solar Energy, Era Solar, Goldpoly (Quanzhou), Himin Holdings, Jetion, Jia Yi Energy Technology, Jiasheng Photovoltaic Tech., Jiutai Energy, Komaes Solar, Leye Photovoltaic Science Tech., Magi Solar Technology, Perfectenergy, Polar Photovoltaics, Qiangsheng (QS Solar), Refine Solar, Risun Solar (JiangXi Ruijing Solar Power Co., Ltd.), Shanghai Chaori Solar Energy, Shangpin Solar, Shanshan Ulica, Shenglong PV-Tech, Shenzhen Global Solar Energy Tech., Shuqimeng Energy Tech, Skybasesolar, Solargiga Energy Holdings Ltd., Sopray Solar, Sunlink PV, Tianjin Jinneng Solar Cell, Topsolar, Trony, Weihai China Glass Solar, and Yuhan Sinosola. For an additional 12 PRC exporters and/or producers of merchandise that were named in the Petition, the Department issued a questionnaire, but did not receive confirmation of delivery. Those companies are: Aiko Solar, Best Solar Hi-tech, Dai Hwa Industrial, Eoply New Energy, Golden Partner development, Innovosolar, Jiangxi Green Power Co. Ltd., Sanjing Silicon, Sunflower, Sunvim Solar Technology, Yunnan Tianda, and Yunnan Zhuoye Energy. *See* memorandum to the file from Erin Kearney, International Trade Analyst, Office 4, AD/CVD Operations on the subject "Delivery of Quantity and Value Questionnaires" dated March 12, 2014.

Separate Rate

The rate assigned to companies granted separate rate status that were not individually examined is normally determined based on the weighted-average of the estimated dumping margins calculated for exporters and producers individually investigated, excluding zero and *de minimis* margins or margins based entirely on facts available (FA).¹⁶ In this investigation, we calculated above *de minimis* estimated weighted-average dumping margins that are not based on total FA for the two mandatory respondents, Trina Solar and Renesola/Jinko. Because we individually examined two companies in this investigation, basing the estimated dumping margin for the companies not individually examined on a weighted-average of the dumping margins for the two individually examined companies risks disclosure of business proprietary information (BPI). Therefore, we calculated both a weighted-average of the dumping margins calculated for the two mandatory respondents using public values for their sales of subject merchandise and a simple average of these two dumping margins, and selected, as the separate rate, the average that provides a more accurate proxy for the weighted-average margin of both companies calculated using BPI.¹⁷

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of certain solar products from the PRC as described in the “Scope of the Investigation” section, which were entered, or withdrawn from warehouse, for consumption on or after July 31, 2014, the date of publication in the *Federal Register* of the notice of an affirmative preliminary

¹⁶ See section 735(c)(5)(A) of the Act.

¹⁷ See the December 15, 2014, memorandum from Jeff Pedersen to the File entitled “Calculation of the Final Margin for Separate Rate Recipients.”

determination that certain solar products are being, or are likely to be, sold in the United States at LTFV. Further, consistent with our practice, where the product from the PRC under investigation is also subject to a concurrent countervailing duty (CVD) investigation, the Department will instruct CBP to require a cash deposit¹⁸ equal to the weighted-average amount by which the normal value exceeds U.S. price, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through.¹⁹ The cash deposit rates, before any adjustments for export subsidies and estimated domestic subsidy pass-through,²⁰ are as follows: (1) for each exporter/producer combination listed in the table above, the cash deposit rate will be equal to the dumping margin listed for that exporter/producer combination in the table; (2) for all other combinations of PRC exporters/producers of the merchandise under consideration, the cash deposit rate will be equal to the dumping margin established for the PRC-wide entity; and (3) for all non-PRC exporters of the merchandise under consideration which have not received their own separate rate above, the cash deposit rate will be equal to the cash deposit rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. These suspension-of-liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we notified the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. As the Department's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will

¹⁸ See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations, 76 FR 61042 (October 3, 2011).

¹⁹ See sections 772(c)(1)(C) and 777A(f) of the Act.

²⁰ With respect to a final affirmative countervailing duty determination in the companion investigation, because the provisional measures period has expired, Commerce will only order the resumption of the suspension of liquidation, and require cash deposits for countervailing duties equal to the final subsidy rates, if the U.S. International Trade Commission issues a final affirmative injury determination. In the event of a final affirmative injury determination, the Department will make an adjustment to AD cash deposits where appropriate for export subsidies and estimated domestic subsidy pass-through.

determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise, or sales (or the likelihood of sales) for importation, of the subject merchandise. If the ITC determines that such injury does not exist, this proceeding will be terminated and all estimated duties deposited as a result of the suspension of liquidation will be refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instructions by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice also serves as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: December 15, 2014.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

BILLING CODE: 3510-DS-P

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
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- III. Scope of the Investigation
- IV. Separate Rate Companies
- V. Use of Adverse Facts Available

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 - Comment 1. Scope of the Investigation
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 - Comment 3. Whether to Offset the Cash Deposit Rate for Export Subsidies
 - Comment 4. Whether the Department Should Investigate the Effects of the GOC's Alleged Cyberhacking on this Investigation
 - Comment 5. Ultimate Ownership of Separate Rate Applicants
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 - Comment 7. Separate Rate Status of Lianyungang Shenzhou New Energy Co., Ltd.
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 - Comment 13. Warranty Costs
 - Comment 14. Incorrect Allocation of Indirect Material, Labor, and Electricity Consumption
 - Comment 15. Whether to Base Renesola/Jinko's Dumping Margin on Partial AFA
 - Comment 16. Whether to Collapse Jinko and Renesola
 - Comment 17. Whether to Use Market-Economy Purchase Prices to Value all of Renesola/Jinko's Solar Cells
 - Comment 18. Whether to Adjust Renesola/Jinko's Cash Deposit Rate by the Full Amount of Domestic Subsidies
 - Comment 19. Separate Rate Application of tenKsolar

- VII. Recommendation